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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,750	01/28/2000	Purnendu Shekhar Ojha	NEXTAG-00308	2623
28960	7590	11/02/2005	EXAMINER	
HAVERSTOCK & OWENS LLP			POND, ROBERT M	
162 NORTH WOLFE ROAD			ART UNIT	
SUNNYVALE, CA 94086			PAPER NUMBER	

3625

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/493,750	<b>Applicant(s)</b> OJHA ET AL.	
	<b>Examiner</b> Robert M. Pond	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4 and 6-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 17 August 2005 has been entered.

### ***Response to Amendment***

All pending claims (1, 4, and 6-26) were examined in this non-final office action.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 4, and 6-26 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1, 4, 6, 11-22, 25, and 26 are rejected under 35 USC 102(b) as being anticipated by Leiseca et al. (US 5,253,165 hereinafter referred to as “Leiseca”).**

Leiseca teaches all the limitations of claims 1, 4, 6, 11-22, 25, and 26. For example, Leiseca discloses a system, method, and means of consumers (herein referred to as buyers) posting transportation service requirements on a computerized reservation system connected to a telecommunications network accessible and viewable by any seller of transportation services. Leiseca discloses transportation service providers (herein referred to as sellers) using the computerized reservation system to offer transportation services on a firm, non-negotiable basis or negotiable basis (please see at least abstract; Fig. 1 (2, 3, 4, 5, 6); Fig. 2 (10); col. 1, line 10 through col. 2, line 50). Leiseca further discloses:

- *Providing information relating to a transaction between a first party and a second party to a third party via the wide area network:* Buyer A (first party) posts his/her transportation services requirements including rates in the “MAYBE TRANSPORTATION NEEDS” list (Fig. 2 (16, 21); col. 4, lines 3-17) that is updated and accessible and viewable by any online seller

accessing the "MAYBE NEEDS LIST" (Fig. 2(14)) (see col. 5, line 61 through col. 6, line 8). Seller A (second party) browses "MAYBE NEEDS LIST" and views Buyer A's posted request for services and may enter into direct negotiations with Buyer A or enter "MAYBE SCHEDULE" (see Fig. 2 (13, 15); col. 6, lines 4-8). Upon entering "MAYBE SCHEDULE" Seller A posts negotiable transportation services including rates. Seller A's posting is listed with all such transportation services entered by providers and is thereby viewable by other transportation service providers. Seller B (third party) can view Buyer A's interaction with Seller B via the "MAYBE SCHEDULES" (Fig. 2 (14, 19, 21); col. 6, lines 47 through col. 7, line 18). The above interaction discloses Buyer A and Seller A interacting via the "MAYBE" file while one or more third-party Sellers view the interactivity.

- Enabling the third party to facilitate consummation of the transaction between the first and second parties by transmitting a counteroffer or acceptance from the third party to the first party via the wide area network:

Seller B browses "MAYBE NEEDS LIST" showing Buyer A's posting as a counter to Seller A's posting (please note: after Buyer A browses "MAYBE SCHEDULES", Buyer A can enter into negotiations directly with Seller A or go to "MAYBE TRANSPORTATION NEEDS" and counter Seller A or any seller (see col. 7, line 5)). Seller B (third party) enters "MAYBE NEEDS LIST" and either counters by posting offer in "MAYBE

SCHEDULE” or accepting Buyer A’s request by entering into negotiations with Buyer A (see Fig. 2 (15); col. 5, line 61 through col. 6, line 8).

- Notifying second party: Seller B’s counteroffer posted in “MAYBE SCHEDULE”; System updates “MAYBE SCHEDULE”. All system users (buyers and sellers) accessing 14, 17, and 19 are made aware of changes Seller B negotiated contract with Buyer A and removes requirements and updates system to notify all participants currently online (see col. 7, lines 28-31).
- Filtering bids: Buyer A views “MAYBE SCHEDULES” screen and instructs reservation system to limit listings based on criteria (e.g. particular date) (see at least col. 6, lines 47-65).
- Second bid/ask: Inherent in Leiseca are the structures that permit repeated posting of bid/ask negotiations. As noted above, Buyer A and Seller A begin negotiations but Seller B counters. Buyer A, Seller A, or Seller B can view offers to assess the spread.
- Business rules and criteria: according to rules established by the service, sellers are required to submit rates, available transportation space, location, and dates; buyers posting “MAYBE TRANSPORTATION NEEDS” provide particular origination location and date (see at least col. 5, lines 34-60; col. 6, lines 3-8; col. 7, lines 7-18).

- Response options: Seller A or Seller B can enter directly into contract negotiations with Buyer A or counteroffer as noted above (see at least Fig. 2 (15, 19)).
- Third party controlling implementation of at least one business rule with reference to at least one other business rule associated with second party:  
Please note: Seller B (third party) can counteroffer with at least a change in rate, origination location, or date different from Seller A's rate, origination location, or date. With respect to time, the counteroffer of Seller B occurs after Seller A as noted above.
- Fourth party: Seller C (fourth party) can view Seller A and Seller B's postings and counteroffer as noted above.
- Computer program product: Inherent in Leiseca are the structures necessary to permit a computer program product to execute the computer instructions necessary to function as a computerized reservation service. For example, a central host computer manages communications between buyers and sellers and manages the database that manages the "MAYBE FILE" (see at least Fig. 1 (1, 6); col. 2, line 64 through col. 3, line 27).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 2. Claims 7-10 and are rejected under 35 USC 102(b) as being unpatentable over Leiseca (US 5,253,165) in view of Walker et al. (US 5,794,207, hereinafter referred to a "Walker").**

Leiseca teaches all the above as noted under the 102(b) rejection and teaches a) a computerized reservation system electronically connecting buyers and sellers for the purpose of conducting buyer-driven commerce or seller-driven commerce, b) for its time, state of the art computer technology comprising terminals remotely connected to a computerized reservation system over a telecommunications network, and c) buyers and sellers browsing display screen information transmitted by the reservation system, but does not teach web pages and web page objects. Walker teaches electronic contracting for passenger space via a computerized reservation system, buyer-seller negotiations prompted by buyer-driven initiatives to post desired transportation services and price in search of a seller of transportations services willing to negotiate, facilitating transaction efficiencies between buyers and sellers of transportation services, and helping transportation service providers maximize capital yield through more



efficient methods of finding buyers for available space (see at least abstract; Fig. 1 (200); Fig. 2 (200); col. 1, lines 10-12; lines 43-48; lines 59-60; col. 1, lines 66-67; col. 2, line 1 through col. 7, line 50; col. 8, line 28 through col. 11, line 2).

Walker further teaches use of a registration system, use of the Internet as a telecommunications network, a web server acting as the central controller and database manager, and client computers with web browsers accessing the central server (see at least abstract; col. 7, lines 20-25; col. 8, lines 42-46, lines 59-61; col. 11, line 51 through col. 20, line 48). Inherent in Walker are the structures necessary to permit the use of objects in web pages and the activation of icons to affect an action by web server. Therefore it would have been obvious to one of ordinary skill in the art at time of invention to modify the system and method of Leiseca to include the technological advances in telecommunications and system architecture as taught by Walker et al, in order to achieve additional efficiencies in buyer-seller contracting transactions and outreach to potential consumers and sellers of passenger.

- 3. Claims 23 and 24 and are rejected under 35 USC 102(b) as being unpatentable over Leiseca (US 5,253,165) in view of Walker (US 5,794,207), as applied to claim 1, further in view of Official Notice (regarding within the skill).**

Leiseca teaches all the above as noted under the 102(b) rejection and teaches a) a computerized reservation system electronically connecting buyers

and sellers for the purpose of conducting buyer-driven commerce or seller-driven commerce, and b) providing transaction efficiency and tracking transactions between buyers and sellers, but does not specifically disclose a transaction identifier. Walker teaches electronic contracting for passenger space via a computerized reservation system, buyer-seller negotiations prompted by buyer-driven initiatives to post desired transportation services and price in search of a seller of transportations services willing to negotiate, facilitating transaction efficiencies between buyers and sellers of transportation services, and helping transportation service providers maximize capital yield through more efficient methods of finding buyers for available space (see at least abstract; Fig. 1 (200); Fig. 2 (200); col. 1, lines 10-12; lines 43-48; lines 59-60; col. 1, lines 66-67; col. 2, line 1 through col. 7, line 50; col. 8, line 28 through col. 11, line 2). Walker further teaches at least assigning a unique tracking number to a buyer's conditional purchase offer and to a seller's acceptance (see at least col. 9, lines 1-30). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the method of Leiseca to provide a transaction identifier as taught by Official Notice, in order to provide transaction efficiency, and thereby permit Buyer A, Seller A, Seller B, and Seller C to effectively communicate offers and counteroffer specific to a particular set of requirements for Buyer A.

Leiseca and Walker teach all the above as noted under the 103(a) rejection and teach assigning transaction numbers but do not disclose a mutually

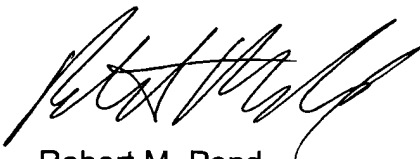
exclusive bid group. The Examiner takes the position it is within the skill of one of ordinary skill in the art to ascertain that a buyer who posts multiple requests for transportation service for the same cargo space but on at least one other date is creating a mutually exclusive bid group whereby upon the completion of one contract renders the at least one other request invalid. Therefore it would have been obvious to one ordinary skill in the art at time of the invention to modify the method of Leiseca and Walker to assign a transaction identifier to a mutually exclusive bid group in order to efficiently remove any remaining buyer requests no longer considered to be valid.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert M. Pond  
Primary Examiner  
October 28, 2005